

# IDENTIFYING ECONOMIC BENEFITS OF LEGAL AID SERVICE DELIVERY:

## A REVIEW

### DRAFT – FOR DISCUSSION BUT NOT FOR CITATION

WORLD BANK and ACCESS TO JUSTICE COMMITTEE, IBA - 10 SEPTEMBER 2018

#### I. INTRODUCTION

1. Legal aid is typically viewed as the provision of assistance to people who are otherwise unable to afford legal representation and access to the formal justice system. The term “legal aid” generally includes legal advice<sup>1</sup>, assistance<sup>2</sup> and/or representation<sup>3</sup>, as well as other services such as legal education, information and mechanisms for alternative dispute resolution. Legal aid is regarded as central in providing access to justice by ensuring equality before the law, the right to counsel and the right to a fair trial. National governments under various international conventions and treaties, local efforts have an obligation to ensure equal and meaningful access to the justice system for all their citizens, regardless of their background. Since barriers to justice reinforce poverty and inclusion, the provision of legal aid is also seen as linked to the protection of human rights<sup>4</sup>, which contributes to poverty alleviation goals and ultimately fosters sustainable development.<sup>5</sup>
2. By leaning heavily on constitutional<sup>6</sup> and ideological principles underpinning the concept of “access to justice”, the proponents of legal aid typically argue that the provision of legal aid is a moral obligation of the government and an essential element of a fair, humane and efficient justice system that ensures public trust in the rule of law more broadly. To opponents, the provision of free or subsidized legal aid is associated with a “waste” of “scarce public resources”, which fosters greater dependence on government and is better delivered by charities or the private sector. In addition, according to them, other more urgent government priorities, such as education or health care, restrict the potential for the provision of publicly funded legal aid. These views reveal a fundamental question faced by both camps of “the proper role of government” and how much society is willing to pay to ensure access to justice for those in need.<sup>7</sup>
3. From a policy perspective, the dilemma generally boils down to a more practical question of whether the expected benefits of the proposed policy actions outweigh its expected costs, and whether the society becomes better off as *a whole* as a result of those actions.<sup>8</sup> To help weigh their options, legal aid policymakers are increasingly turning to cost-benefit analysis (CBA-hereafter), an analytical exercise conducted to determine the net-benefits of a project, program or policy.
4. A traditional CBA compares a scenario with-the-intervention with a contrafactual baseline scenario without-the-intervention. A distinctive feature of CBA is that costs and benefits of different policy interventions are expressed in monetary terms, which allows for direct

comparisons along a common scale. Because the investment effects are monetized, CBA enables decision makers to compare policies and programs that have different outcomes and purposes. Ultimately, identifying and quantifying the costs of legal aid service delivery, including the benefits of early intervention, through a carefully documented CBA is expected to demonstrate that legal aid services, when delivered effectively, is both budget neutral and creates net benefits to the economy.

5. At the same time, CBA can be a powerful tool for those seeking expanded funding of legal aid services.<sup>9</sup> This is particularly relevant as much of the benefits brought by the provision of legal aid programs go far beyond the clients served, bringing tangible results for the justice system, the economy and the society. As a means to an end, therefore, well conducted CBAs may help to gain a broader consensus in favor of increasing funding for legal aid programs, as well as to better inform the design, evaluation and monitoring of such programs in the future.
6. Over the last few decades, significant progress has been made in better understanding the incidence of legal problems.<sup>10</sup> The early studies, for instance, shed significant light on who are those in need of legal aid, the reasons why legal needs remain unmet, common obstacles to accessing justice, etc.<sup>11</sup> In short, this body of research argues for the recognition of everyday legal needs, which also happen to be predominately civil in nature.<sup>12</sup> Despite the significant build-up of evidence on legal needs<sup>13</sup> and the cost of non-intervention<sup>14</sup>, very little is known about the extent to which society would benefit from the provided legal aid assistance, as well as whether the intervention can be justified from the economic perspective.<sup>15</sup>
7. Quantifying the full net economic impact of the provision of legal aid assistance is not straightforward, but there is at least some consensus on the direction of the impact and the main channels of transmission. Assessing the impact of some direct and predominately indirect economic benefits proves to be a more challenging exercise as there are many areas of influence that are not easily disentangled and monetized. Yet momentum is building and decision-making throughout the international justice community has started to acknowledge the importance of strengthening this line of research.<sup>16</sup>
8. Against this background, this note reviews the extent of the knowledge and evidence related to the costs and benefits associated with the provision of legal aid services across various, primarily OECD, jurisdictions. To set the scene, the note starts with a brief overview of the most common types of legal aid problems and policy responses to them and general approaches to classifying benefits and costs of legal aid services. It then proceeds with a review of studies on CBA of legal aid in jurisdictions where data is available. Finally, the note closes with some general recommendations for improving CBA of legal aid service delivery.

## II. COSTS AND BENEFITS OF PROVIDING LEGAL AID SERVICES: A CONCEPTUAL FRAMEWORK

9. In this section, we briefly list the most common types of legal aid needs, as well as legal aid delivery schemes available to the broader public. This part aims to lay the ground work for the preceding literature review section by providing an integrated view on the costs of legal aid problems and the benefits of legal aid responses from all relevant perspectives discussed under the general typology of costs and benefits. This section does not aim to offer an exhaustive overview of all potential costs and benefits associated with the legal aid programs. Rather, the types of costs and benefits described are intended to be indicative of the types of costs and benefits commonly identified in the CBA literature review followed in the next section.
10. At the outset, it is important to note that national legal aid systems have been evolving independently of each other in different countries and regions, often reflecting the national development particularities and historical trajectories.<sup>17</sup> No one context is the same: the justice system in each country is different, as is its legal aid service delivery system. Even among countries of similar legal traditions and levels of economic development, there is a wide variety of schemes and approaches aimed at providing legal aid services for poor and disadvantaged groups.
11. Services provided generally cover **criminal, civil** and/or **administrative matters** and can include
  - (i) the provision of primary legal advice (including the provision of legal information, mediation and education),
  - (ii) legal representation and assistance in preparing cases at local, national or international level,
  - (iii) provision of psychological support and specialized assistance,
  - (iv) legal advocacy, etc.<sup>18</sup>
12. Based on the data available, the most common types of civil justice problems for which legal aid services are sought out relate to “**consumer rights, government benefits, housing, employment issues, land and property disputes, family problems, conflicts with neighbors, and debt**”.<sup>19</sup> In the area of housing, for instance, the most frequently mentioned issues are associated with evictions, foreclosure, utility issues, unsafe housing conditions and homelessness. Similarly, family problems can encompass divorce, domestic violence, child custody, visitation, maintenance and alimony, and division of family assets. Depending on the context, access to legal aid, especially in the early stages of the criminal justice process, such as **pretrial detention**, is found to be essential for poor and marginalized groups, who are often not aware of their legal rights and lacking resources to obtain legal advice and representation in court.<sup>20</sup>

13. The cost of unaddressed legal needs is extensive, affecting not just the individuals, but also their families, the overall justice system, the economy and society. These costs include not only direct monetary losses, such as stolen or damaged property, expenses on medical and health care, the loss of income or even the loss of employment and property, but also significant yet difficult-to-quantify socio-economic costs such as pain, suffering, trauma, fear, reduced quality of life, damaged reputation and dignity. Unaddressed legal needs may also have indirect costs for communities, such as reduced business investment, lower property values, declined economic output, and misused financial resources (i.e. the provision of otherwise avoidable emergency housing). The justice system also bears its costs in terms of the over-used resources that could be allocated more efficiently.
14. Providing legal aid services can deliver a range of benefits to parties affected. Generally, these costs and benefits are classified as tangible or intangible. **Tangible costs and benefits** are those that involve monetary payments as a result of the provision of legal aid services. These costs and benefits can be estimated quite accurately. Examples of **tangible costs** include government expenditures on legal aid programs, out-of-pocket losses to legal aid clients, corporations, as well as the costs of pro-bono services provided by private lawyers and BAR associations. **Tangible benefits**, for instance, can include public benefits recovered on behalf of legal aid clients or cost savings to communities from the avoided provision of emergency shelters or efficiency gains to the justice system from more expedient court processes as a result of represented by legal aid litigants. Cost and benefits that are known to exist, but are hard to quantify are referred to as **intangible costs and benefits**. Examples of **intangible benefits** can include social clout, feelings of empowerment, increased trust in government. Such benefits are not easily quantified, and evaluating them is more subjective than tangible benefits. Therefore, it is generally desired that a CBA should not be conducted on the basis of intangible benefits alone.
15. With regards to measurement methods, benefits and costs can be classified as either **direct** or **indirect**. **Direct costs and benefits** are those which are directly associated with the provision of legal aid assistance. To calculate such benefits and costs, researchers generally deal with the primary sources of information, such as civil legal aid surveys or the budgets of the providers of legal aid services. Avoided costs of hospitalization and medical treatment that legal aid helped avert is a **direct benefit** to survivors of domestic violence. Government expenditures on legal aid programs is an example of **direct costs** to society from providing legal aid services. **Indirect benefits and costs** are usually realized as a by-product of other processes and are not directly related to a legal aid policy. To estimate such benefits and costs, researchers generally require secondary sources of information (e.g. property valuation). Realized efficiency gains to the courts due to the provision of legal assistance and training to legal aid's clients and self-represented litigants is an example of **indirect benefits** of legal aid.
16. Table 1 summarizes the most common types of costs associated with unaddressed legal problems (i.e. domestic violence, housing issues, etc.) to all parties affected, including the

perspectives of individuals, the justice system and society. The terms “costs” and “benefits” are used interchangeably depending on whether one is examining the effect of a legal aid case or the effectiveness of a legal aid program. In other words, the cost of an incident of domestic abuse is the same as the benefit of an incidence of domestic abuse that was prevented as a result of legal aid assistance.

**Table 1. Costs of unaddressed legal problems and the cost of society’s response to them.**

| Cost category: | Individuals   | Justice System   | Society   |
|----------------|---|--|---|
| Direct costs   | <ul style="list-style-type: none"> <li>• Property damage</li> <li>• Medical and mental health care</li> <li>• Social services</li> <li>• Lost wages for unpaid work days</li> <li>• Legal fees</li> </ul> <hr/> <ul style="list-style-type: none"> <li>• Foregone government benefits due to limited legal proficiency</li> </ul> | <ul style="list-style-type: none"> <li>• Police</li> <li>• Detention</li> <li>• Prosecution</li> <li>• Incarceration</li> <li>• Courts expenses associated with managing legal cases (e.g. filing/record keeping)</li> </ul> | <ul style="list-style-type: none"> <li>• Homelessness prevention programs</li> </ul> <hr/> <ul style="list-style-type: none"> <li>• Increased burden on fire departments</li> <li>• Demolition costs,</li> <li>• Building inspections, maintenance, etc. resulting from foreclosures</li> </ul> |

|                |  |  |  |
|----------------|--|--|--|
| Indirect costs | <ul style="list-style-type: none"> <li>• Productivity losses for unpaid workdays lost</li> <li>• Pain, suffering and quality of life losses</li> <li>• Increased mortality and morbidity</li> <li>• Behavioral problems of children and declined performance</li> <li>• Lost housework</li> <li>• Long term consequences of victimization</li> </ul> | <ul style="list-style-type: none"> <li>• Efficiency losses for courts from self-represented litigants</li> </ul> | <ul style="list-style-type: none"> <li>• Productivity losses for paid workdays</li> </ul>  |
|                | <hr style="border-top: 1px dashed black;"/> <ul style="list-style-type: none"> <li>• Home value and equality losses from foreclosure</li> </ul>  |  | <hr style="border-top: 1px dashed black;"/> <ul style="list-style-type: none"> <li>• Reduced home value and equity for neighboring property owners</li> <li>• Losses in property tax revenue</li> <li>• Increased crime rates</li> <li>• Declines in economic opportunity</li> </ul> |

### III. CLASSIFYING AND REVIEWING CBAs OF LEGAL AID: EMERGING EVIDENCE

17. In this section, we review the emerging evidence on CBAs of legal aid delivery systems and structure the discussion based on the costs and benefits of the most common types of legal problems. In doing so, we are also paying attention to the different types of studies attempted to assess economic impacts of legal aid in order to identify commonalities across CBAs of legal aid, as well as any emerging patterns that could inform future assessments. Overall, we notice that cost-benefit work is still relatively new to legal aid service delivery, and its utilization is an emerging trend. But the handful of legal aid programs to which it has been applied demonstrates its promising policy application.
18. CBAs have been used to evaluate a wide range of legal aid programs, from preventing **domestic violence**, delaying/avoiding **foreclosures**, preventing **evictions** to reducing the number of **arbitrary detained low-income individuals** and improving the **efficiency of the courts system**. Researchers have been applying CBAs to assess the cost-effectiveness of (i) a protective order for the victims of domestic violence; (i) access to legal aid representation in both criminal and civil legal matters; and (iii) access to legal aid information, including legal advice, education, workshops and clinics. In addition, to evaluating the effectiveness of the existing legal aid programs, the CBAs were used to assess the likely net economic impact of programs under consideration.
19. With regards to the cost and benefits quantified, CBAs of legal aid can be generally classified into (i) **narrow cost-benefit analysis** and (ii) **comprehensive cost-benefit analysis**. We

define narrow cost-benefit analysis as those focusing primarily on direct tangible benefits and costs resulting from the provision of legal aid services. Comprehensive cost-benefit analyses refer to those that include narrow costs-benefit analysis plus an extensive accounting of indirect economic benefits to all parties affected by a legal aid policy, including the perspectives of individuals, justice system and society. This accounting can include, for instance, avoided indirect costs of pain, suffering, fear and quality of life losses for victims of domestic violence, property value and tax losses for communities or efficiency losses for the courts from self-represented litigants. In other words, this comprehensive assessment aims to capture the avoided welfare cost of legal aid problems, losses of taxes and efficiency gains to the justice system more broadly.

20. The **narrow cost-benefit analysis** appears to be more common across studies that attempt to quantify the economic impact of overall legal aid system. For instance, an extensive body of evidence comes from the United States, where in the last two decades many states have been assessing the net economic impacts of their legal aid systems<sup>1</sup>. These studies generally examined the direct economic benefits and costs of the provided legal aid assistance, and some indirect benefits attained predominately in the areas of homelessness and domestic violence prevention.<sup>21</sup> All studies have relied on a set of conservative assumptions, quantifying the most likely realizable directly observable tangible costs and benefits of legal aid assistance.<sup>22</sup>
21. Across these studies, the most commonly identified benefits and costs of legal aid can be summarized as follows:
- (i) direct benefits recovered/obtained on behalf of clients of legal aid<sup>23</sup>,
  - (ii) direct costs of legal aid services,
  - (iii) direct non-public benefits recovered/obtained for state clients such as child support awards, landlord/tenant settlements, spousal maintenance awards, etc.,
  - (iv) direct and indirect costs savings to the survivors of domestic violence,
  - (v) direct cost savings to communities in emergency housing for victims of domestic violence and/or families rendered homeless through eviction or foreclosure<sup>24</sup>,
  - (vi) indirect cost savings to communities from avoided foreclosures, included preserved home values and avoided losses in property taxes,
  - (vii) costs savings linked to crime prevention and reduction in law enforcement assistance,
  - (viii) increased tax revenues for the state and local jurisdictions from jobs preserved in the state as a result of legal aid employment cases,
  - (ix) efficiencies in courts due to legal aid's assistance to clients and unrepresented litigants through materials and trainings on how to follow court procedures,
  - (x) the economic multiplier effect from out-of-state dollars.

---

<sup>1</sup> States that undertook economic impact analysis of their legal aid systems include Alaska, Arizona, Arkansas, California, Florida, Georgia, Iowa, Illinois, Louisiana, Maryland, Massachusetts, New Hampshire, New York, North Carolina, Ohio, Oklahoma, Pennsylvania, Tennessee, Texas, and Virginia. In part, the decision to utilize these evidence-based practices was driven by the need to preserve and even extend funding for legal aid programs in times of historic budgetary pressures, by showing decision makers that the work of legal aid services reaches beyond the client served.

Below, we discuss more closely each cost and benefit of legal aid identified in the state studies.

22. All state studies generally follow the standard method for calculating the **direct monetary benefits** and **costs** from the provision of legal aid services. The calculation of direct benefits usually involves the sum of retroactive awards and new benefits won by the clients of legal aid, as well as the anticipated future benefits.<sup>25</sup> Total direct monetary benefits are computed by multiplying reward amounts by the number of beneficiaries and average duration of each type of benefits.<sup>26</sup> The calculation of direct costs associated with the provision of legal aid is also straightforward. The figures are usually obtained directly from the providers of legal aid and typically include all sources of revenues within a jurisdiction of interest.<sup>27</sup>
23. Across the state studies, the calculation of other benefits of legal aid is less straight-forward and generally requires more expert knowledge and evidence on the subject. The avoided direct and indirect costs of **domestic violence** is one of the examples. These costs include not only direct monetary losses, such as damaged property or medical costs, but also other costs such as pain, suffering, fear, reduced quality of life, also referred to as **victimization costs**. In the case of states studies, there are at least three commonly identified types of positive impacts arising from reductions in the incidence of abuse. The first impact involves predominantly direct/tangible benefits to victims of domestic violence. The second commonly mentioned externality is related to savings in emergency shelters for survivors of domestic abuse. The third consists of benefits for children by keeping them protected from the negative consequences of domestic violence. The state studies generally acknowledge the positive impacts on children without quantifying the related benefits.
24. Most state CBAs do not calculate the **cost of victimization**, instead they rely on the cost-of-domestic violence literature. For instance, numerous studies have been referencing a cost-benefit analysis of a legal aid program for the state of Wisconsin<sup>2</sup> to derive the cost estimate for an incident of domestic abuse avoided through legal aid.<sup>28</sup> The study finds that each incident of prevented domestic violence could result in \$3,201 of “avoided medical care, mental healthcare, lost productivity, and property damage costs”.<sup>29</sup> Some state studies apply more “conservative estimates” for the cost of domestic assault<sup>30</sup>, factoring in only the cost of medical and mental care estimated at \$816 per incident of abuse.<sup>31</sup> At the upper end, the cost of avoided domestic violence incident from the CBAs of legal aid for the states of Tennessee (2015) and Illinois (2012). The studies apply the average per-incident cost of \$10,620 and \$16,599 respectively, accounting for a wider range of factors behind domestic violence, including other intangible losses such as pain, suffering, and reduced quality of life.<sup>32</sup> As a result, cost estimates for violent assaults avoided vary widely across the state studies, depending largely on the range and nature of factors captured in the cost of domestic abuse.<sup>33</sup>
25. Measuring the overall benefits of legal assistance for prevention of domestic violence requires some estimates about the extent to which the provided legal aid helped obtain

---

<sup>2</sup> The study will be discussed in more detail in the next section.



**favorable outcomes** for its clients. All state studies operate under the assumption that the provision of legal assistance should help a client obtain a favorable legal outcome (e.g. a protective order was granted). Therefore, only the number of successful legal cases in which a favorable outcome was obtained is used to calculate the final costs avoided as a result of legal aid. The overall savings to the victims of domestic violence are calculated by multiplying the per-incident cost of domestic by the rate of success, which also varies across the state studies.<sup>34</sup> None of the reviewed CBAs from the United States, however, attempt to correct for a non-random selection of victims in the process of legal representation and consequently establish a causative relationship between representation and favorable legal outcomes.

26. In addition, the empirical evidence from the state studies also shows that by avoiding/delaying **evictions** or avoiding **foreclosures** legal aid can generate significant cost savings to communities and local governments. Within this rubric, the state studies typically identify the following benefits:
- (i) cost savings by preventing homelessness of people living in poverty,
  - (ii) cost savings by avoiding shelter provision,
  - (iii) cost savings associated with preserved home value and equity for homeowners and neighboring communities,
  - (iv) property tax savings from preserved home value and avoided unpaid property taxes,
  - (v) cost savings from avoided public spending on maintenance of abandoned properties, including utilities, costs of fire and police involvement with vacant homes.
27. As in the case of domestic violence, measuring benefits of foreclosure or eviction requires an estimate of a favorable outcome achieved for the clients compared to a business as usual scenario without legal aid representation. By design, most legal aid housing programs include a range of predetermined positive outcomes that may be achieved for the clients (i.e. avoided eviction, obtained additional time, or avoided foreclosure). Whenever the outcome-to-case tracking is available, the state studies rely upon that information to derive their outcome ratios.<sup>35</sup> In all other cases, some general assumptions are made about the degree of success.<sup>36</sup>
28. Next, the number of cases with outcomes in which families may have been prevented from entering emergency shelters is used to estimate the cost savings to the communities from the avoided shelter provision through legal aid. State studies generally note that not all evicted or foreclosed families would utilize homeless shelters if not kept in their homes. To derive the relevant outcome rates, the state studies rely on other national studies on the topic.<sup>37</sup> As a result, the overall cost savings are calculated by multiplying the number of cases in which foreclosure was avoided or eviction was prevented/delayed by the number of families in need of emergency shelter and the average cost of emergency shelter per family<sup>38</sup>.
29. The economic research also suggests that avoided foreclosures through legal aid can generate savings for the individual homeowners, as well as neighboring low-income communities. The state studies generally rely on the **cost-of-foreclosure literature** to derive their estimates

for the reduction in property values.<sup>39</sup> For example, a CBA for the state of Tennessee notes that every foreclosure may lead to a reduction in property value for the actual homeowners by as much as 43%, with the average reduction in property value of homes in neighborhood estimated at 9%.<sup>40</sup> The overall savings from the preserved home value for homeowners and neighboring property owners are calculated based on the number and value of properties affected by foreclosure and the average reduction in property value avoided through legal aid.

30. In addition to the avoided price declines, by preventing foreclosures, communities may avoid unnecessary spending on maintenance, public safety, sheriff evictions, inspections, public safety, etc., of otherwise vacant and abandoned properties. These costs, for instance, can be obtained from the previous cases of foreclosure and relevant financial statements of government agencies.<sup>41</sup> Foreclosures can also impact revenue generation capacity of local government in terms of losses in property taxes collected from the reduced property values.<sup>42</sup> The avoided losses in property tax can be calculated by multiplying the avoided loss in assessed value per foreclosure by the property tax in the service area.
31. Finally, an inflow of extra money into the community supports additional economic activity, which generates more income, which, in turn, leads to more spending, more income and so on. This effect is commonly known as **the multiplier effect**. The overall multiplier effect typically varies depending on the size of the community where the legal aid services are provided, as well as spending patterns of the civil legal aid organizations and their clients.<sup>43</sup> It is also commonly known that at lower income levels, an increase in income is likely to result in larger original spending as low-income households, which also happen to be the typical recipients of the legal aid, tend to spend most of their income on consumption instead of saving it.
32. Most of the studies for the United States that examined the multiplier effect have utilized Bureau of Economic Analysis Regional Input-Output Multiplier System<sup>44</sup> and the respective regional multipliers.<sup>45</sup> The multiplier effect analyses have been generally conducted under a set of conservative assumptions with expert opinions on the matter taken into account.<sup>46</sup> Most of the studies for the United States find substantial statewide economic benefits from the provision of the legal aid. For instance, Gabbe in his economic impact analysis of civil legal aid services in Maine calculates \$13.4 million in total statewide economic activity.<sup>47</sup> A sizeable benefit to the Texas economy was found by the Perryman Group, a consulting firm, which estimates that for every dollar spent on the provision of legal aid services, the state economy gains \$7.48 in overall spending, \$3.56 in gross product, and \$2.22 in personal income.<sup>48</sup> None of the studies, however, attempted to determine the correct multiplier for various types of legal aid benefits<sup>49</sup>, as well as to account for the potential distributional effects of legal aid.
33. Some CBAs have also adopted more tailored approaches to estimating benefits of legal aid. In many instances, the need was prompted by the wide range of legal aid services (i.e. basic legal information services), the valuation of which could not be easily performed on an

individual basis. For example, a CBA of the Community Advice Offices (CAOs) in **South Africa** undertakes a contingent valuation willingness to pay (WTP) approach to the CAO's service users. By following this approach, the users were asked about the amount of the annual contribution they would be willing to offer, if not making such contribution the services would not be available to them. The users were also asked about the amount they would be willing to offer for the particular service they received on the day of the interview. The main assumptions of the evaluation approach is that users are sufficiently informed about what a CAO does and that their willingness to pay would be a reasonable proxy for the benefits it provides.

#### IV. APPLICATION OF THE CBA APPROACH TO THE MOST COMMON TYPES OF LEGAL AID PROBLEMS

34. In this section, we zoom in on CBAs of the most common types of legal aid needs. Most of these studies also happen to follow a **comprehensive cost-benefit analysis framework**. That is, in addition to the direct benefits these studies identify and quantify the indirect benefits attributable to the prevention of legal aid problems. Within this stream of legal aid cost-benefit research, the most common type of legal problems is attributable to **domestic violence**.
35. Much of the **domestic violence research** looks at the impact of civil legal aid assistance, generally defined as "improved safety" in terms of "civil protective orders obtained" or "rates of reabuse".<sup>50</sup> A study for the state of Kentucky looks at the impact of civil protective orders for victims of domestic violence. To evaluate the intervention, the authors quantify economic costs of partner violence six months before a protective order was issued and six months after a protective order was issued.<sup>51</sup> The estimated costs were focused primarily on direct costs related to service utilization including health and mental care services, legal services, civil and criminal justice system courts. Indirect costs were related to lost opportunities to work and perform other duties, loss of quality of life, property losses and time spent for transportation.<sup>52</sup> Findings from the study suggest that protective orders make a difference in safety, fear levels and cost savings. The relative cost of a protective order was found to be small compared to total costs associated with partner violence.<sup>53</sup> Overall, the study finds that for every dollar of the protective order intervention there was \$32 in avoided costs for society. When the quality of life index is excluded, which is also the largest cost item, the intervention still yields net gains, albeit very small.<sup>54</sup>
36. Another study undertakes a comprehensive CBA of a legal aid program for the victims of domestic abuse for the state of Wisconsin.<sup>55</sup> The proposal aims to expand the funding for legal aid in order to increase the number of domestic violence victims receiving legal aid services by more than 20 percent. The impact of legal aid is defined in terms of the "effective restraining order", assuming the restraining order was granted and at least one violent attack would be prevented per victim. According to the authors, this is a rather conservative assumption as the average victim is found to be assaulted 3.4 times and the average rape

victim 1.6 times annually.<sup>56</sup> Among the primary costs and benefits used in the model, the authors include:

- (i) direct costs for the legal aid program under consideration,
- (ii) the loss of access to the abuser's income for the victims,
- (iii) avoided costs to victims from preventing the incidence of abuse, including the avoided costs of medical care, mental healthcare, lost productivity, lost quality of life and property damage.<sup>57</sup>

To account for uncertainty surrounding the estimates of avoided costs to the victims of domestic violence, as well as other model parameters, several robustness checks, including Monte Carlo<sup>58</sup> sensitivity analysis and worst-case scenario analysis, have been undertaken. In particular, the Monte Carlo analysis assesses the program's outcome under various conditions for the model's inputs (i.e. changes in the number of victims of domestic violence, the proportion of victimizations that are rape or physical assault, the number of effective restraining orders, etc.). Under the worst-case scenario, the authors look at the lowest possible benefits, which also happen to be positive, although smaller than the base case analysis.

37. Other studies, although not attempting to quantify explicitly the benefits and costs of legal aid, demonstrate that women's access to alternative social services, including legal assistance, can reduce the probability of future domestic violence. For example, in the attempt to explain the causes behind the decrease in the incidence of domestic violence in the United States during the 1990s, Amy Farmer and Jill Tiefenthaler explore empirically the linkages between an individual woman reporting abuse and relevant individual and county-level characteristics, including the availability of legal assistance programs in counties.<sup>59</sup> The study finds that women who live in counties with legal assistance programs to help battered women are significantly less likely to report abuse.<sup>60</sup> The same study also warns about other policy responses to domestic violence, namely "hotlines, shelters, safe homes, emergency transportation, and counseling programs", which, although provided some temporary safety nets to the victims, did not cause the trend to decline.<sup>61</sup> Overall, the study supports the case of the continued expansion of the availability of civil legal services in communities as a long-term benefit towards the lowering incidence of domestic abuse.<sup>62</sup>

## V. APPLICATION OF THE CBA APPROACH FROM A SYSTEMWIDE PERSPECTIVE

38. In this section, we look at the benefits and costs of legal aid for the **justice system** more broadly. Economic research suggests that there are several channels of transmission through which the justice system can become more cost-efficient and equitable as a result of the provision of legal aid assistance. In the case of the criminal justice system, a functioning legal aid delivery system may help reduce the length of time that suspects are held in pre-trial detention. In addition, it can contribute to a reduction in the prison population, the number of wrongfully convicted persons, as well as the prevention of crime through an increasing awareness of one's rights under law. Legal aid can also make the overall justice system more efficient by resolving legal problems at early stages through alternative dispute resolution or diversionary mechanisms and by reducing the time spent by courts in supporting unrepresented litigants to navigate the justice system.

39. Many studies argue that the provision of legal aid can bring cost savings to the overall justice system<sup>63</sup>, but the empirical evidence on the topic remains very limited. The available empirical evidence also suggests that some benefits of legal aid are more easy to quantify, such as savings to the justice system from the reduced number of people held in pretrial detention. In this example, the costs of detention are generally observable and can be linked to the number of detainees. When legal aid is accessible, and arbitrary detention is avoided as a result, the calculation of the savings realized is relatively straightforward. As for the other economic benefits to the justice system, such as an increased public trust in the justice system, they are more difficult to quantify and very often, such benefits are not factored in the CBAs. However, depending on a country context (i.e. fragile and conflict affected settings), neglecting those benefits can significantly underestimate the overall benefits of the legal aid delivery system.
40. Most of the cost-benefit research work on legal aid for the justice system, for both criminal and civil justice policies, has been focusing on **the cost savings from avoided/reduced pretrial detention**<sup>3</sup>, including avoided sentencing costs, and **efficiency gains to the court system**. In the case of the latter, the most commonly quantified benefits of legal aid are attributable to the reduction in court time spent on unrepresented litigants, as well as the number of cases diverted/avoided from the traditional justice system as a result of the legal aid's work. Most applied justice system related CBAs calculate the costs of legal aid interventions, translate the potential impacts into monetary values, and compare those costs and benefits to a business as usual scenario.
41. Within this stream of work, one example comes from **Uganda**.<sup>64</sup> The study undertakes a CBA of the National Legal Aid Policy (NLAP) with the aim to expand access to early dispute resolution mechanisms for indigent, marginalized and vulnerable groups through greater use of **paralegals**<sup>65</sup> and **students in law clinics** as legal aid providers. In addition, the focus on paralegals has been identified as the most suitable to the national context legal aid delivery model<sup>66</sup>, being aligned with the experience of other African countries, including Kenya, Tanzania, Sierra Leone, Nigeria, and Malawi.<sup>67</sup>
42. To conduct the CBA, the study relies on various sources of information, such as desks reviews, interviews with various stakeholders, relevant baseline surveys, as well as the available literature on the costs and benefits of legal aid in the African context. To derive the net economic impact of legal aid, the study calculates the direct costs and benefits of legal aid, including
- (i) cost savings to police by reducing avoidable detentions at police stations,
  - (ii) cost savings to prisons by reducing population on remand (i.e. pre-trial detention and remand),
  - (iii) cost savings to courts through fewer self-represented litigants and the number of cases diverted from the court system,

---

<sup>3</sup> High rates of pre-trial detention are particularly evident in low income countries and states emerging from conflict. According to the Institute for Criminal Policy Research (ICPR), pre-trial detainees account for 86 percent of the prison population in Bolivia, 83 percent in Liberia, and 74 percent in Bangladesh.

- (iv) employment related benefits (post detention),
- (v) cost savings from using paralegals compared to legal officers at magistrate districts,
- (vi) pro-bono service,
- (vii) cost savings to individuals from resolved land dispute cases,
- (viii) cost of legal aid services.

In addition, the study mentions other commonly identified social and economic costs of pretrial detention to low-income individuals and their families, such as lose of income, suspension of education, lose of housing, exposure to disease and psychological abuse.<sup>68</sup> These benefits are generally described to strengthen the case for the legal aid intervention, but they do not intend to influence the empirical results of the CBA.

43. Overall, the study makes an appealing case for the need to expand the state-funded legal aid services in the country, which is also supported by the high costs of maintaining status quo to indigents and vulnerable groups. The methodology behind the CBA exercise and the calculation of benefits in particular, however, could have benefited from more consistent and credible assumptions. For example, the rationale behind the application of the average costs of detention compared to the marginal costs<sup>69</sup> is not justified for the purpose of the analyses. Furthermore, the subjective assumptions concerning the reduction in population under detention by police and on remand for prisons are neither sufficiently discussed, nor corroborated by the empirical evidence on the subject, the same implies to the calculation of benefits to courts in terms of the time saved from the avoided and diverted legal cases.<sup>70</sup>
44. In addition to the case of Uganda, a number of studies for other **African jurisdictions** point to a significant impact of legal aid on achieving favorable outcomes for pretrial detention and as a result for the overall justice system. Most of these legal aid impact assessments, however, do not attempt to quantify the costs and benefits of legal aid. Nevertheless, they provide important evidence on the outcome of legal aid interventions, as well as they magnitudes that can be regarded as an important milestone for a hypothetical CBA. For example, an impact assessment of legal aid in the three target districts of **Sierra Leone** found that the pilot was successful in securing bail for about 50% of assisted people in police stations. In addition, in 28% of the cases, the charges were dropped entirely, usually due to cases of mistaken identity, misunderstandings of facts, or lack of evidence.<sup>71</sup> As a result, within 9 months of operation and having only ten paralegals on duty, the pilot was successful in securing release for approximately 80% of the people in police stations. A similar legal aid scheme aimed at providing early access to legal aid on pretrial detention was introduced in **Nigeria** in 2005.<sup>72</sup> Under the scheme, duty solicitors were assisting suspects and detainees at police stations on a 24-hour duty schedule. After 8 months of operation, the program had secured the release of 611 detainees from prisons and 644 persons from police stations. The average length of detention period declined from 609 days to 171 days. In addition, access to legal aid for pretrial detainees can also effect the likelihood of entering informed pleas to the charges against them, thereby saving considerable time and financial resources for courts, as is evident from a project carried out by the Paralegal Advisory Service in **Malawi**.<sup>73</sup>

45. Some studies have looked at the effectiveness and efficiency of legal aid for **the court system**.

The justice theory suggests that the availability of legal aid professionals can increase the chances of represented litigants to obtain a favorable outcome in a more expedited manner compared to legal cases involving unrepresented litigants. There is indeed a growing body of empirical evidence to suggest that self-representation is usually ineffective for unrepresented litigants.<sup>74</sup> Some studies also show that legal aid can bring cost savings to the court system by reducing the number of self-represented litigants.

46. An example comes from a CBA analysis conducted by PricewaterhouseCoopers'(PwC) for the National Legal Aid in **Australia**.<sup>75</sup> The study focuses primarily on quantifiable benefits and costs of legal aid to the court system and does not account for the impact of other legal aid services, such as legal advice, information and education, effects of which, as noted by the authors, are not easily disentangled.<sup>76</sup> The quantifiable impacts are associated with (i) legal representation, (ii) duty lawyer assistance, and (iii) alternative dispute resolution mechanisms. The costs are measured in terms of the funding provided for legal aid services.<sup>77</sup> The savings to courts are estimated based on the average court costs per type of outcome<sup>78</sup> subject to the model's assumptions.<sup>79</sup>

47. Another study finds that legal workshops and clinics provided to self-represented litigants can produce cost savings for courts and for litigants. The research work was conducted in the six trial courts in California's San Joaquin Valley to evaluate the cost-effectiveness of legal programs available for self-represented litigants. In particular, the study finds that each dollar spent on a legal workshop was generating 0.23 dollars in court savings in terms of the reduced number of court hearings and the time of court staff. Additionally, courts that provide one-on-one assistance and information services to litigants are found to save at least from 5 to 15 minutes of hearing time for every hearing held in the case and 1 to 1.5 hours of court staff time related to providing assistance to self-represented litigants. Also, assistance to self-represented litigants aimed at resolving cases at the first court appearance reduces future court hearings, as well as their costs.

48. Overall, more research is needed to better understand the impact of legal aid on the courts and justice system more broadly. In this stream, much of the emerging evidence has anecdotal or "soft" nature.

## VI. INITIAL CONCLUSIONS AND KEY MESSAGES:

- No two legal aid service delivery systems are the same, because justice systems, and the people who navigate them are different around the world. This study is limited to a small collection of jurisdictions where CBAs have been conducted and data is available. So there can be no claims of external validity.

- While the financial justification is not the main precondition for a CBA, most of the CBAs under review were initiated by the need to provide an economic justification for the legal aid funding.
- CBAs of an entire legal aid system are more likely to focus on tangible benefits and costs from the provision of legal aid, while CBAs of specific legal aid interventions are more likely to value in addition external effects (benefits and costs), such as favorable effects on health and quality of life. By valuing such externalities, economic cost-benefit analysis attempt to better reflect the true cost and value to the society. The inclusion of externalities however may also bring some challenges associated with their identification and measurement in terms of money.
- Almost all studies reviewed build their analytical strategies on a set of conservative assumptions, meaning that likely identifiable and quantifiable benefits are included in the analysis. However more consistency in the assumptions made is desired across the analyzed CBAs.
- The multiplier effect accounts the lion's share of overall economic benefits brought as a result of the provision of legal aid. By omitting those benefits, decision-makers may be missing a substantial part of the benefit of legal aid assistance.
- Significant gaps in the literature should be filled before robust cost-benefit analysis can be conducted for many legal aid policies and interventions. Jurisdictions appear to be interested in conducting these analyses, and there is a role for supporting policymakers to develop robust CBAs as they design, implement and review their service delivery systems.

## VII NEXT STEPS:

The IBA to invite its members, and the Access to Justice and Legal Aid Committee to contact other relevant policy makers, academics and legal aid experts, to:

- Provide any existing research, policy, thought piece or other document relevant to identifying the economic benefits of legal aid, or the economic costs of not providing legal aid; information from or about jurisdictions under-represented in the examples in this document are particularly welcome, including civil law jurisdictions and those in Africa, Asia, Central and South America, Europe and Oceania;
- Identify potential economic benefits from legal aid that are not mentioned in the document;
- Make any other comments with a view to ensuring the final report is comprehensive, relevant for jurisdictions of all types and traditions, and of use to all governments and policy makers in developing or reforming their legal aid systems.
-



## REFERENCES

Boston Bar Association. 2014. *Investing in Justice: A Roadmap to Cost-effective Funding of Civil Legal aid in Massachusetts*, available at <http://www.bostonbar.org/docs/default-document-library/statewide-task-force-to-expand-civil-legal-aid-in-ma---investing-in-justice.pdf>

Feelhaber Rod and Jerome A. Deichert. March 2008. *The Economic Impact of Legal Aid of Nebraska*, available at <http://legalaidresearch.org/wp-content/uploads/Research-The-Economic-Impact-of-Legal-Aid-of-Nebraska.pdf>

Holt L. Victoria L., Mary A. Kernic, Thomas Lumley, Marsha E. Wolf, and Frederick P. Rivara. 2002. *Civil Protection Orders and Risk Subsequent Police-Reported Violence*. *Journal of the American Medical Association* 288: 589-94, available at <https://jamanetwork.com/journals/jama/fullarticle/195163>

Irvine Mary L. January 2014. *The Economic Impact to the State of North Carolina of Civil Legal Services in 2012*, available at <http://www.law.unc.edu/documents/poverty/justice/economicbenefits2012fullreport.pdf>

Kenneth A. Smith and Andrea J. Brewer. September 2011. *Economic Impacts of Civil Legal Aid Organizations in Virginia*, available at <http://www.vplc.org/wp-content/uploads/2012/10/VA-Report-on-Economic-Impacts.pdf>

Kenneth A. Smith and Kelly Thayer. March 2015. *Economic Impact of Civil Legal Aid Organizations Tennessee*, available at [http://www.tba.org/sites/default/files/2015-TN-Final%20Report%20Package\\_Consolidated%20Statewide\\_3-18-2015.pdf](http://www.tba.org/sites/default/files/2015-TN-Final%20Report%20Package_Consolidated%20Statewide_3-18-2015.pdf)

Kushner Jonah. July 2012. *Legal Aid in Illinois*, available at [http://iejf.org/wordpress/wp-content/uploads/LegSrvs\\_Report\\_120717.pdf](http://iejf.org/wordpress/wp-content/uploads/LegSrvs_Report_120717.pdf)

Pennsylvania Interest on Lawyers Trust Account Board, Supreme Court of Pennsylvania. October 2012. *The Economic Impact of Outcomes Obtained for Legal Aid Clients Benefits Everyone in Pennsylvania*, available at <http://legalaidresearch.org/wp-content/uploads/Research-The-Economic-Impact-of-Outcomes-Obtained-for-Legal-Aid-Clients-Benefits-Everyone-in-Pennsylvania.pdf>

Richardson A. James. January 2011. *Legal Services Programs in Louisiana: Their Economic Impact on the State of Louisiana*, available at [https://www.americanbar.org/content/dam/aba/administrative/legal\\_aid\\_indigent\\_defendants/AT\\_JReports/ls\\_LA\\_impact\\_2011.authcheckdam.pdf](https://www.americanbar.org/content/dam/aba/administrative/legal_aid_indigent_defendants/AT_JReports/ls_LA_impact_2011.authcheckdam.pdf)

The Maryland Access to Justice Commission. January 2013. *Economic Impact of Civil Legal Services in Maryland*, available at <http://mdcourts.gov/mdatjc/pdfs/economicimpactofcivillegalservicesinmd201301.pdf>

The Minnesota Legal Services Coalition. November 2011. *Economic Impact Measurements of Minnesota Legal Aid*, available at [http://mylegalaid.org/downloads/Economic\\_Impact\\_Report.pdf](http://mylegalaid.org/downloads/Economic_Impact_Report.pdf)

The Montana Legal Services Association.2015. *The Economic Impact of Civil Legal Aid to the State of Montana*, available at <https://courts.mt.gov/portals/113/supreme/boards/a2j/docs/Economic%20Impact%20Civil%20Legal%20Aid%20Final.pdf>

The Iowa Legal Aid. January 2013. *The Economic Impact of Iowa Legal Aid*, available at <http://legalaidresearch.org/pub/1688/economic-impact-iowa-legal-aid/>

The Ohio Legal Assistance Foundation, January 2013. *Strength in Justice: Ohio's Legal Aids Energizing Our Economy and Building Our Communities*, available at <https://laslev.org/wp-content/uploads/12-11-12-OLAF.pdf>

The Steven C. Agee Economic Research and Policy Institute. *The Economic Impact of Legal Aid in Oklahoma*, Oklahoma City University Economic Research and Policy Institute.

The State Wide Task Force, *The Economic Impact of Outcomes Obtained for Legal Aid Clients Benefits Everyone in Pennsylvania*, available at <https://www.paiolta.org/wp-content/uploads/2014/05/Economic-Impact-of-Legal-Aid.pdf>

The Task Force to Expand Access to Civil Legal Services in New York. November 2013. Report to the Chief Judge of the State of New York, available at [http://www.nycourts.gov/accesstojusticecommission/PDF/CLS-TaskForceReport\\_2013.pdf](http://www.nycourts.gov/accesstojusticecommission/PDF/CLS-TaskForceReport_2013.pdf)

,available at <http://tsdp.co.za/wp-content/uploads/2015/07/Cost-Benefit-Analysis-Community-Advice-Offices-in-South-Africa-HSRC.pdf>

---

<sup>1</sup> “Legal advice” refers to provision of advice about the application of the relevant laws and the actions that might be taken by a person given the legal circumstances.

<sup>2</sup> “Assistance” means assistance in taking the appropriate actions on behalf of the legal aid clients and/or assisting them in taking those actions.

<sup>3</sup> “Representation” implies representation of a person before a prosecutor, court or tribunal.

<sup>4</sup> See General Assembly resolution 70/1, available at

[http://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A\\_RES\\_70\\_1\\_E.pdf](http://www.un.org/en/development/desa/population/migration/generalassembly/docs/globalcompact/A_RES_70_1_E.pdf)

<sup>5</sup> The UN SDG, in particular Goal 16, targets 16.3 and 16.b, seek to measure the extent to which equal access to justice for all are promoted, as well as the extent to which non-discriminatory laws and policies for sustainable development are enforced.

<sup>6</sup> In many jurisdictions, the right to legal aid, particularly in criminal cases is granted through the constitution and other national laws. For a list of countries and more information, consult *United Nations, Global Study on Legal Aid: Country Profiles* (November 2016), pp. 525-562, available at [http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/access\\_to\\_justiceandruloflaw/global-study-on-legal-aid.html](http://www.undp.org/content/undp/en/home/librarypage/democratic-governance/access_to_justiceandruloflaw/global-study-on-legal-aid.html)

<sup>7</sup> To extend the thought, one may argue that a failure to access the justice system is a perfect case of market imperfections, which necessitates government intervention. See, e.g., Jennifer S. Rosenberg and Denise A. Grab, *Supporting Survivors: The Economic Benefits of Providing Civil Legal Assistance to Survivors of Domestic Violence*, Institute for Policy Integrity, New York University School of Law (July 2015), pp.19-20, available at <http://policyintegrity.org/publications/detail/supporting-survivors>.

<sup>8</sup> See, e.g., J.J. Prescott, *The Challenges of Calculating the Benefits of Providing Access to Legal Services*, 37 Fordham Urb. L.J. 303 (2010) available at <http://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?article=2329&context=ulj>.

<sup>9</sup> See, e.g., Ken Smith, Barbara Finkelstein and Christopher O'Malley, *Economic Impacts of Legal Aid: Civil Justice for Low-Income People Creates Ripple Effects That Benefit Every Segment of The Communities We Serve*. *Management Information Exchange Journal* (Fall 2011), available at

[http://www.greatprograms.org/mie\\_article/pdfs/Economic%20Impacts%20of%20Legal%20Aid\\_MIE%20Journal\\_Fall%202011.pdf](http://www.greatprograms.org/mie_article/pdfs/Economic%20Impacts%20of%20Legal%20Aid_MIE%20Journal_Fall%202011.pdf)

<sup>10</sup> See, e.g., OECD and Open Society Foundation, *Understanding Effective Access to Justice*, Workshop Background Paper, (November, 2016), pp. 8-9, available at <http://www.oecd.org/gov/Understanding-effective-access-justice-workshop-paper-final.pdf>; See also Pascoe Pleasence, Nigel J. Balmer and Rebecca L. Sandefur, *Paths to Justice: A Past, Present and Future Road Map* (August 2013), available at [www.nuffieldfoundation.org/sites/default/files/files/PTJ%20Roadmap%20NUFFIELD%20Published.pdf](http://www.nuffieldfoundation.org/sites/default/files/files/PTJ%20Roadmap%20NUFFIELD%20Published.pdf);

<sup>11</sup> *Ibid.*

<sup>12</sup> See Open Society and Justice Initiative and World Bank, *Public access to effective and just dispute resolution – Technical Brief*, (last visited Jan. x, 2018) <http://deliver2030.org/wp-content/uploads/2016/03/Technical-Brief-Public-access-to-effective-and-just-dispute-resolution.pdf>

<sup>13</sup> From an evaluation perspective, the recognition of a clearly defined need is one of the key per- requisites for government intervention, followed by the idea that the proposed intervention is likely to be worth the cost. See HM Treasury, *Green Book*, available at <http://www.fao.org/ag/humannutrition/33236-040551a7cfbc0e73909932192db580c4.pdf>

<sup>14</sup> There is particularly true in the case of violence against women, where enormous costs of non-intervention were found throughout the literature. See, e.g., Ashe, S., Duvvury, N., Raghavendra, S., Scriver, S., & O'Donovan, D., *Costs of Violence Against Women: An Examination of the Evidence* (2016), available at <https://www.whatworks.co.za/documents/publications/68-authors-ashe-s-duvvury-n-raghavendra-s-scriver-s-and-o-donovan-d/file>.

<sup>15</sup> See generally Prescott JJ, *supra* note 5, pp. 319-320.

<sup>16</sup> See, e.g., Canadian Forum on Civil Justice, *The Cost of Justice: Weighing the Costs of Fair and Effective Resolution to Legal Problems*, available at , The background report notes “a lack of previous integrated scholarly work from which to build” to inform the research on costs of civil justice”, as well as “the need to solve the current methodological problems in costs of justice research”; U.S. Department of Justice, *White House Legal Aid Interagency Roundtable: Civil Legal Aid Research Workshop Report* (February 2016), available at <https://www.justice.gov/lair/file/828316/download>;

<sup>17</sup> For an extensive discussion on the comparative development of legal aid refer to Francis Regan, Alan Paterson, Tamara Goriely & Don Fleming *The Transformation of Legal Aid: Comparative and Historical Studies* 1999, Oxford: Oxford University Press, Part 2, *Why Do Legal Aid Services Vary Between the Societies? Reexamining the Impact of Welfare States and Legal States* by Francis Regan.

<sup>18</sup> *Supra* note 7, page 20. See also Box 3 on page 25.

<sup>19</sup> See Pleasence at el., *supra* note 8.

<sup>20</sup> See generally United Nations Office on Drugs and Crime and United Nations Development Programme, *Early access to legal aid in criminal justice processes: a handbook for policymakers and practitioners* (2014), available at [\[link\]](#)

<sup>21</sup> *Ibid.*

<sup>22</sup> *Ibid.*

<sup>23</sup> *Ibid.* In the US context, the most common types of benefits were identified in the areas of food stamps, supplemental security and social security disability, temporary welfare assistance and tax related awards.

<sup>24</sup> The dollar values are assigned by multiplying the number of avoided eviction or foreclosure cases by the percentage of households that ultimately require shelter [the estimate is taken from the New York Study], Virginia study applied 15 percent.

<sup>25</sup> For comparability purposes, the future streams of benefits are discounted to arrive at a present value.

<sup>26</sup> The information on the duration of benefits can be obtained from legal documents.

<sup>27</sup> In the case of state studies, the direct costs typically cover all in-state revenues of legal aid providers, such as state or local tax dollar support, contributions from other organizations with the state, as well as voluntary donations.

<sup>28</sup> See Liz Elwart, et al. *Increasing Access to Restraining Orders for Low-Income Victims of Domestic Violence: A Cost-Benefit Analysis of the Proposed Domestic Abuse Grant Program*, Wisconsin Access To Justice Committee Report (December 2006), available at <http://www.nlada.org/DMS/Documents/1176146724.92/>.

<sup>29</sup> See e.g. Minnesota 2013 (p.13), New York City 2010 (p. 26), Virginia (p.6), and Montana 2015 (p. 17).

<sup>30</sup> Studies for Maryland and

---

<sup>31</sup> Both studies use the average cost of \$816 for medical and mental health care resulting from a physical assault referring to Department of Health and Human Services, Centers for Disease Control and Prevention, National Center for Injury Prevention and Control, *Costs of Intimate Partner Violence Against Women in the United States* (March 2003), available at <https://www.cdc.gov/violenceprevention/pdf/ipvbook-a.pdf> (DHHS study).

<sup>32</sup> See Tennessee 2015, p. 12. The per-incident cost used in the analysis captures the losses in workplace productivity, lost income, medical and mental health treatment expenses, costs of social services, law enforcement, and judicial system costs. Illinois 2012 (p. 14),

<sup>33</sup> For instance, when the quality of life is incorporated into the analyses, the cost of a domestic violence incident can average as much as \$26,000 (Wisconsin study).

<sup>34</sup> See, e.g., North Carolina 2012 (p. 15), Minnesota 2013 (p. 13), Tennessee 2015 (p. 12), Virginia 2011 (p. 6); Illinois 2012, by referring to a Seattle study, assumes that “every 100 cases prevented 11.1 incidents of domestic violence”. The Maryland study (2012) adjusts the final estimates for the prevalence of physical assault (41.5% of victims were injured, and 31% of those received some type of medical care as a result of intimate partner violence according to the DHHS study, *Supra* note 24).

<sup>35</sup> Assumptions are generally made on success rate of avoiding/delaying eviction or avoiding foreclosure as a result of legal aid’s work. See e.g. Tennessee 2015 (p. 10): by drawing on a scientific survey on legal aid in the state of Pennsylvania, the authors assume the outcomes ratio of 11% and 51% for brief representation and extended representation housing cases, respectively. See also Pennsylvania 2012 (p. 7).

<sup>36</sup> This also may include “borrowing” the estimates from other state studies. See e.g. Tennessee (2015)

<sup>37</sup> State studies note that not all evicted or foreclosed households would utilize emergency shelter if not kept in their homes. For example, Tennessee 2015 (p. 10) assumes that 31 percent of households would have utilized emergency shelter if evicted, referencing “The Homelessness Prevention Program: Outcomes and Effectiveness New York State Department” study. Virginia 2011 (p. 7) estimates that 15 percent of the saved from eviction would require emergency housing; Illinois 2012 (p. 9) assumes that one in five cases prevented would require entering emergency shelter; North Carolina 2012 (p. 17) applies even more conservative estimate of 5 percent for homelessness following eviction. See also Maryland 2013 (p. 12), Pennsylvania 2012 (p. 7), Montana 2015 (p. 18).

<sup>38</sup> Average cost of emergency shelter provision for one family is estimated based on the length of stay (usually the number of days) and cost of alternative housing in the location (e.g. the lowest cost of stay in a hotel). Some studies (e.g. North Carolina 2012; Montana 2015) derive their cost estimates for emergency sheltering from a research study conducted by the Department of Housing and Urban Development. According to the report, the average costs of shelter for first-time homeless individuals and families fall within a range of \$1,634 to \$2,308 for individuals and between \$3,184 to \$20,301 for families. See U.S. Department of Housing and Urban Development, Office of Policy Development and Research. March 2010. *Cost Associated with First-Time Homelessness for Families and Individuals*, available at [https://www.huduser.gov/publications/pdf/Costs\\_Homeless.pdf](https://www.huduser.gov/publications/pdf/Costs_Homeless.pdf)

<sup>39</sup> This includes the actual properties involved in foreclosure, as well as the immediate neighboring properties affected by the actual foreclosure.

<sup>40</sup> See e.g. Ohio 2010 (p. 7). The study reports that each incidence of foreclosure may lower property values for other homes by as much as 2.1%, referencing Brien A. Mikelbank, November 2008. *Spatial Analysis of the Impact of Vacant, Abandoned, and Foreclosed Properties*, Federal Reserve Bank of Cleveland, available at <https://www.clevelandfed.org/newsroom-and-events/publications/special-reports/sr-200811-spatial-analysis-of-impact-of-vacant-abandoned-foreclosed-properties.aspx>; See also Tennessee 2015 (p. 7), Montana 2015 (p. 18) and North Carolina 2012 (p. 16). These studies reference Li Schloemer, Ernst and Keest. 2006. *Losing Ground: Foreclosure in the Subprime Market and The Cost to Homeowners*, Center for Responsible Lending, Table 6, available at [http://www.peri.umass.edu/fileadmin/pdf/conference\\_papers/SAFER/Schloemer\\_etal\\_Losing\\_Ground.pdf](http://www.peri.umass.edu/fileadmin/pdf/conference_papers/SAFER/Schloemer_etal_Losing_Ground.pdf);

According to the study, homeowners impacted by nearby foreclosures in their communities experience on average a loss of \$23,150 as a result of their close proximity to the foreclosures.

<sup>41</sup> *Ibid.*

<sup>42</sup> See e.g. Tennessee 2015 (p. 11).

<sup>43</sup> Maine, Texas, See generally Paola Cavallari, Matthew D. Devlin and Rebekah A. Tucci, *Justice Measured: An Assessment of the Economic Impact of Civil Legal Aid in Arkansas* (October 2014).

<sup>44</sup> “Multiplier models” or input-output models are often used to trace individual changes in final demand through the economy over the short periods of time. These multipliers can be generally applied to all federal funds coming into a

---

state, including federal grants that are used to finance the provision of the legal aid services and federal benefits recovered on behalf of legal aid clients.

<sup>45</sup> See Jonah Kushner, *Legal Aid in Illinois: Selected Social and Economic Benefits* (July 2012) [link].

The researchers applied the retail trade sector multipliers to model the impact of Social Security, Temporary Assistance to Needy Families (TANF), veterans' benefits and IRS tax awards. Similarly, the real estate sector multipliers were applied to rental assistance awards, and multipliers for the ambulatory care services sector were used for Medicare and Medicaid awards.

<sup>46</sup> See Iowa Legal Aid, *The Economic Impact of Iowa Legal Aid* (January 2013),

<http://www.iowalegalaid.org/files/A3ED30CF-AFFE-7431-9310-0D521E4312AF/attachments/CF9C722F-986A-48F4-A399-D664E1837D79/economic-impact-study-1-22-13.pdf>. The decision to apply a multiplier of 1.25, a lower bound of the 1.25-1.4 multiplier range found by Iowa State Professor of Economics David Swenson, was made by the authors based on the conservative assumption, implying that "each new dollar brought into Iowa as a result of Iowa Legal Aid's work results in an additional 25 cents of economic activity"; Feelhaver et al., *The Economic Impact of Legal Aid of Nebraska* (March 2008), [link] The researchers used a multiplier of 2.0, finding it to be "conservative when compared to basic industries" for Nebraska;

<sup>47</sup> See Todd Gabbe, *Economic Impact of Civil Legal Aid Services in Maine*. Maine's Justice Action Group (November 2016).

<sup>48</sup> The Perryman Group, *Current and Potential Economic Benefits of Legal Aid Services in Texas: 2013 Update*, (February 2013)

<sup>49</sup> See Laura K. Abel&Susan Vignola, *Economic and Other Benefits Associated with the Provision of Civil Legal Aid*

<sup>50</sup> None of those studies, however, attempts to measure the "improved safety" as such. Although not measured empirically, many studies point to consistent victim satisfaction with restraining orders, complemented by the studies that find that "orders do not do not appear to significantly increase the risk of reabuse and may deter some abusers". See also Jane Murphy, *Engaging with the State: The Growing Reliance on Lawyers and Judges to Protect Battered Women*, 11 Am. U. J. Gender Soc. Pol'y & L. 499 (2003), p. 504 available at <http://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1404&context=jgspl>,

<sup>51</sup> TK Logan et al., *The Kentucky Civil Protective Order Study: A Rural and Urban Multiple Perspective Study of Protective Order Violation Consequences, Responses, & Costs*, University of Kentucky (September 2009), available at <http://www.ncjrs.gov/pdffiles1/nij/grants/228350.pdf>.

<sup>52</sup> In order to construct cost estimates, victims of domestic abuse were asked to report their services utilization, including services used because of the abuse, time lost from work, as well as any property losses stemming from the abuse, during the six months before and six months after the issuance of the protective order.

<sup>53</sup> *Ibid.*

<sup>54</sup> The exclusion of the quality of life index has however resulted in a negative loss of \$6 for the Violations Plus Stalking group.

<sup>55</sup> Wisconsin report.

<sup>56</sup> *Ibid.*, p. 12.

<sup>57</sup> *Ibid.*

<sup>58</sup> Monte Carlo is a statistical technique that uses sampling and probability distribution to simulate the effects of uncertain variables on model outcomes. The advantage of this method is that it gives insights in the cumulative effect of multiple sources of uncertainty in each of the costs and benefits, including possible interactions between them.

<sup>59</sup> See Amy Farmer & Jill Tiefenthaler, *Explaining the Recent Decline in Domestic Violence*, 21 Contemporary Economic Policy 158 (2003), available at [https://www.cga.ct.gov/jud/tfs/20160729\\_Task%20Force%20to%20Improve%20Access%20to%20Legal%20Counsel%20in%20Civil%20Matters/Reference%20Materials/Explaining%20the%20Decline%20in%20Domestic%20Violence.pdf](https://www.cga.ct.gov/jud/tfs/20160729_Task%20Force%20to%20Improve%20Access%20to%20Legal%20Counsel%20in%20Civil%20Matters/Reference%20Materials/Explaining%20the%20Decline%20in%20Domestic%20Violence.pdf)

<sup>60</sup> *Ibid.*, pp. 10-12. In addition to the increased provision of legal assistance for victims of domestic violence, the authors report improvements in women's economic status and demographic trends among the key factors contributing to the decline in the incidence of domestic violence during the analyzed period.

<sup>61</sup> *Ibid.*

<sup>62</sup> See Lou Marano, *Access to Legal Aid Lowers Domestic Abuse* (January 2003), United Press International, available at [http://www.upi.com/Odd\\_News/2003/01/08/Access-to-legal-aid-lowers-domestic-abuse/UPI-20631042061919/](http://www.upi.com/Odd_News/2003/01/08/Access-to-legal-aid-lowers-domestic-abuse/UPI-20631042061919/).

<sup>63</sup> See e.g. CBAs of legal aid for the United States.

---

<sup>64</sup> See Legal Aid Service Providers' Network, *Cost Benefit Analysis of the Uganda National Legal Aid Policy* (May 2016), available at [\[link\]](#)

<sup>65</sup> A paralegal is generally referred to a person who is not a fully qualified lawyer, but capable of providing some or all of the services that are provided by fully qualified lawyers. The reliance of paralegals as legal aid providers has been growing in many regions of the world, particularly in developing African countries. See generally the Kampala Declaration on Community Paralegals, available at [\[link\]](#)

<sup>66</sup> Supra note 64, p.4.

<sup>67</sup> See generally Kampala Declaration on Community Paralegals.

<sup>68</sup> See e.g. Open Society Foundations and United Nations Development Programme, *The Socioeconomic Impact of Pretrial Detention*, available at

[https://www.un.org/ruleoflaw/files/Socioeconomic%20impact%20of%20PTD\\_Sept%2010%202010\\_Final.pdf](https://www.un.org/ruleoflaw/files/Socioeconomic%20impact%20of%20PTD_Sept%2010%202010_Final.pdf)

<sup>69</sup> See e.g. Vera Institute of Justice, *A Guide to Calculating Justice-System Marginal Costs* (May 2013),

<sup>70</sup> Although it is possible that the available data and evidence could have constrained the authors from developing a more robust cost-benefit assessment, there is very little corroborative evidence on the choices behind the key model parameters, as well as the model's assumptions.

<sup>71</sup>

<sup>72</sup>

<sup>73</sup>

<sup>74</sup> See generally Sandefur L. Rebecca, *The Impact of Counsel: An Analysis of Empirical Evidence* (November 2010), available at

<https://digitalcommons.law.seattleu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1076&context=sjsj> ; See also Albiston R. Catherine and Sandefur L. Rebecca, *Expanding the Empirical Study of Access to Justice* (2013), available at

<https://pdfs.semanticscholar.org/2ad2/50f039cb6ace686944e917a984d662d2bb62.pdf>

<sup>75</sup> PricewaterhouseCoopers'. 2009. Economic Value of Legal Aid. Analysis in relation to Commonwealth funded matters with a focus on family law, available at [http://www.legalaidact.org.au/pdf/economic\\_value\\_of\\_legalaid.pdf](http://www.legalaidact.org.au/pdf/economic_value_of_legalaid.pdf)

<sup>76</sup> *Ibid.*

<sup>77</sup> *Ibid.*

<sup>78</sup> *Ibid.*, pp. 32-34.

<sup>79</sup> See also Australian Government. 2009. Productivity Commission. Inquiry Report, Volume 2, pp. 1060-1062 on a review of the study and issues with its assumptions, available at <https://www.pc.gov.au/inquiries/completed/access-justice/report/access-justice-volume2.pdf>